IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 15663 of 2005

For Approval and Signature:

HON'BLE MR JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NAVINBHAI ZINABHAI PATEL & 3 - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MR SP MAJMUDAR for Petitioner No(s).: 1,2,3,4.

MR MR MENGDEY, AGP for Respondent No(s).: 1 to 3

MR TRILOK J PATEL for Respondent No(s).: 4.

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CORAM : HON'BLE MR JUSTICE AKIL KURESHI

Date : 09/08/2005

ORAL JUDGMENT

Rule. Learned AGP Shri Mengdey waives notice of rule on behalf of respondent Nos.1 to 3 and learned

advocate Shri Trilok Patel waives service of rule on behalf of respondent No.4. At the joint request of the learned advocates appearing for the parties, the petition is taken up for final disposal today.

2. In this petition, the petitioners have challenged the order dated 5.10.04 passed by the Collector, Bharuch as upheld by the Joint Secretary (Appeals), Revenue Department by the order dated 6.7.05. In the nut-shell, it is the case of the petitioners that the petitioners were alloted 5 hectares of land each out of survey No.463 of village Ankalva, Taluka Hansot by the Government for a period of 10 years for the purpose of fishing. The said order was passed in favour of the petitioners on 9th May 2003. This order, however, subsequently came to be cancelled by the Collector, Bharuch by his order dated 5.10.04. The petitioners preferred revision application before the State Government. However, the State Government rejected the revision application of the petitioners by the order dated 6.7.05. It is the case of the petitioners that the Collector cancelled the grant of land by his subsequent order dated 5.10.04 without hearing the petitioners. On the other hand, it is the case of the Government as well as respondent No.4 that

the land which was assigned to the petitioners was already allotted to respondent No.4 for production of salt way back in the year 1999 and the land the petitioners are claiming to have been alloted was part of a larger area of 83 hectares alloted to respondent No.4 for the purpose of production of salt. It is the case of the Government that on the basis of the reports from the revenue authorities, which reports were subsequently found to be inaccurate, the petitioners came to be alloted the land in question though earlier the same land was part of the allotment made in favour of respondent No.4. Learned AGP Mr.Mengdey submitted that action is already initiated against the responsible officials. Learned counsel Shri Patel appearing for respondent No.4 submitted that respondent No.4 was already put in possession of the entire plot, but on account of some delay the production of salt could not commence immediately. However, the petitioners herein have taken possession of the land in question without proper authority and without ear-marking the land to be alloted to the petitioners.

3. From the above submissions made by the learned advocates appearing for the parties, it is clear that for

whatever reason it may have been, the Collector was pleased to cancel the allotment of the land made in favour of the petitioners by subsequent order dated 5.10.04 without hearing the petitioners. Even for valid reasons if the allotment was to be cancelled, the petitioners ought to have been given an opportunity to rebut the material which was found against them by the authorities. On this ground alone, without expressing any opinion on the rival contentions about the merits of the decision of the Government to cancel the allotment in favour of the petitioners, the impugned orders are required to be quashed.

4. In the result, by quashing the order dated 5.10.04 passed by the Collector and the order dated 6.7.05 passed by the Joint Secretary, the proceedings are remanded to the Collector for fresh consideration and disposal in accordance with law expeditiously after giving an opportunity of being heard to the petitioners. Until such time fresh orders are passed, all sides shall maintain status quo with respect to the land out of survey No.463 of village Ankalva, Taluka: Hansot which the petitioners have occupied presently. With these directions, the petition is disposed of. Rule is made

absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)